

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Twentieth Judicial District Court, County of Lake

STATE OF MONTANA,)	
)	
Plaintiff,)	CAUSE NO. DC-12-022
)	
-vs-)	
)	DECISION
REBECCA GUNHAMMER,)	
)	
Defendant.)	

On December 3, 2018, the District Court revoked Defendant's suspended sentence, and sentenced Defendant to the Montana Women's Prison for ten (10) years, for the offense of Count I: Assault on a Peace Officer or Judicial Officer, a felony. As to Count II: Assault on a Peace Officer or Judicial Officer, a felony, Defendant was sentenced to the Montana Women's Prison, for ten (10) years. The Court granted credit for time served on this revocation of 48 days.

On April 5, 2019, Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). Defendant was present and was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. Defendant was further advised that there is no appeal from a decision of the Division. Defendant acknowledged that she understood this and stated that she wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

It is the unanimous decision of the Division that the sentence imposed is clearly excessive, and the sentence should be **MODIFIED**. The Division finds that the revocation of her suspended sentence was primarily due to compliance violations; that the two Counts of Assault on a Peace Officer stemmed from the same incident; that the PSI author recommended Gunhammer be given credit for 9 months of street time. The imposed sentence is clearly excessive in that it imposes two 10 year sentences, with no time suspended, to run consecutively. The Division finds that twenty (20) years to the Montana Women's Prison is excessive. **Therefore, the sentence is modified as follows: For Count I: Assault on a Peace Officer or Judicial Officer, the Defendant is sentenced to the Montana Women's Prison for ten (10) years, none suspended, and for Count II: Assault on a Peace Officer or Judicial Officer, the Defendant is sentenced to the Montana Women's Prison for ten (10) years, none suspended. The sentences for Count I and Count II shall run concurrently.**

The remaining terms and conditions of the sentence imposed are not clearly inadequate or clearly excessive and are affirmed.

Done in open Court this 5th day of April, 2019.

DATED this 25th day of April, 2019.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



Hon. Dan Wilson, Member



Hon. Luke Berger, Member

CERTIFICATE OF MAILING

I, Georgia Lovelady, Judicial Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing SENTENCE REVIEW DECISION were mailed this 7th day of May, 2019, to the following:

Clerk of District Court
Lake County
106 4th Ave. E.
Polson, MT 59860

James Lapotka, Esq.
Lake County Attorney's Office
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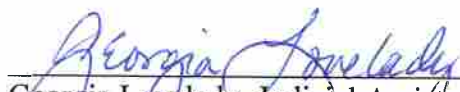
Brent Getty
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Hon. Deborah Kim Christopher
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Georgia Lovelady, Judicial Assistant
SENTENCE REVIEW DIVISION